



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105**

**Approval for a Toxic Substances Control Act  
PCB Commercial Storage Facility**

Permittee: Earth Protection Services, Inc.  
10 South 48<sup>th</sup> Avenue, Suite 4  
Phoenix, AZ 85043

EPA ID Number: AZR 000 005 454 <sup>1</sup>

This Approval is being issued by the United States Environmental Protection Agency (Agency) to Earth Protection Services, Incorporated (EPSI). It authorizes EPSI to operate a PCB commercial storage facility at 10 South 48<sup>th</sup> Avenue, Phoenix, Arizona. This Approval is being issued pursuant to Section 6(e)(1) of the Toxic Substances Control Act (TSCA) of 1976, 15 U.S.C. § 2605 (e)(1) and 40 C.F.R. Part 761.

EPSI shall comply with all terms and conditions of this Approval. The Approval consists of the conditions within this document and the regulations contained in 40 C.F.R. Part 761. All terms and conditions of the Approval are severable. If any term or condition of the Approval is determined by the Agency to be invalid, EPSI shall be subject to all remaining terms and conditions.

This Approval is based on the written information submitted by EPSI on August 29, 2001, December 11, 2001, and December 12, 2001, from Leonardo D. Robinson, with Plews, Shadley, Racher and Braun, to Tom Kelly, with U.S. EPA Region 9, and on the comments provided by the

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<sup>1</sup>In accordance with 40 C.F.R. § 761.205(b), EPSI is allowed to use the EPA identification number issued under RCRA for PCB activities regulated by TSCA.

public during the public comment period between January 25, 2002, and May 28, 2002. Inaccuracies found in the written information provided by EPSI may be grounds for the termination or modification of this Approval.

This Approval is effective immediately and shall remain in effect for 8 years, unless modified, revoked and reissued, terminated, or renewed, in accordance with 40 C.F.R. Part 761 or the terms and conditions herein.

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Enrique Manzanilla  
Director  
Cross-Media Division

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Date

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## A. DEFINITIONS

All the terms and acronyms used in this Approval shall be defined in accordance with Title 40 of the Code of Federal Regulations Section 761.3 unless defined below.

1. “Agency” means the United States Environmental Protection Agency, the U.S. EPA or EPA..
2. “Applicant” means Earth Protection Services, Incorporated.
3. “Application” means the correspondence and attached reports sent by Leonardo D. Robinson, with Plews, Shadley, Racher and Braun, to Tom Kelly, with U.S. EPA Region 9, on August 29, 2001, December 11, 2001, and December 12, 2001.
4. “Ballast Processing Area” means the area identified by that name, shown in Figure 2 of this Approval.
5. “Contingency Plan” means Appendix G of the Application.
6. “C.F.R.” means the Code of Federal Regulations.
7. “Director” means Director of the Cross-Media Division, U.S. EPA Region 9.
8. “Dry well” means as area where water is collected, drained or diverted into a drainage system, river or street for the purposes of disposal.
9. “EPSI” means Earth Protection Services, Incorporated a private company incorporated in the state of Arizona.
10. “Facility” means the Earth Protection Services, Incorporated facility located at 10 South

48<sup>th</sup> Avenue, Phoenix Arizona.

11. “Independent Third Party” means a contractor hired by the Operator to perform work at the Facility.
12. “Lighting ballast” means a PCB lighting ballast, PCB-containing lighting ballasts or a fluorescent light ballast as defined under 40 C.F.R. § 761.3 of TSCA.
13. “Local Library” means the Desert Sage Branch of the Phoenix Public Library located at 7602 West Encanto Blvd., Phoenix, AZ 85035. Information sent to the library should be directed to the reference desk.
14. “Operator” means Earth Protection Services, Incorporated, a private company incorporated in the state of Arizona.
15. “Owner” means TMT Watkin Van Buren Industrial Center, Incorporated, and its current management company located at:  
  
RREEF Management  
2201 East Camelback Rd., Suite 230B  
Phoenix, Arizona 85016
16. “PCB Storage Area” means the Incoming/Outgoing Ballast Storage Area shown in Figure 2 of this Approval.
17. “Potting material” means the tar-like substance used as an insulator in fluorescent lighting ballasts.
18. “Ppm” means parts per million, milligrams per kilogram or mg/kg.
19. “Regional Administrator” means the Regional Administrator, U.S. EPA Region 9.

20. "Release" means a spill (solid or liquid) as defined under 40 C.F.R. § 761.123 of TSCA.
21. "U.S.C." means the United States Code.

## B. BACKGROUND

1. The Facility consists of Suite 4 (of Building 10) located at 10 South 48<sup>th</sup> Avenue, Phoenix Arizona (approximate location shown in Figure 1). The Facility also includes areas around Suite 4 controlled by the Operator, such as the loading and unloading areas and the area used to store scrap metal south of Suite 4.
2. The Facility is leased by the Operator from the Owner.
3. The Operator stores PCB containing lighting ballasts and electrical equipment. Other activities conducted by the Operator at this location include, but are not limited to, the recycling of mercury (primarily from fluorescent lamps) and the collection of universal hazardous wastes (e.g., batteries).
4. This Approval allows the Operator to store PCB waste at the Facility, specifically at the PCB Ballast Storage Area shown in Figure 2. Wastes may also be temporarily located in the freezer and Ballast Processing Area in accordance with the provisions of this Approval. Additionally, it authorizes the Operator to decontaminate PCB lighting ballasts in accordance with the provisions of this Approval.



## C. REQUIRED DETERMINATIONS FOR STORAGE

1. In accordance with 40 C.F.R. § 761.65(d)(2)(i), the Applicant, its principals, and its key employees responsible for the establishment or operation of the commercial storage facility are qualified to engage in the business of commercial storage of PCB waste.

This finding is based on our review of the experience of the personnel that manage the Facility, as stated in Appendix A of the Application. This finding is also based on the training plan and written procedures intended to ensure that new employees understand the Facility's procedures for the proper management of PCBs. These procedures include the Handling and Disposal of PCB Ballasts and Capacitors (Attachment 2), the General Training and Safety Plan (Attachment 3), the PCB Containing Ballast Protocol, and the Hazard Communication Program (Attachment 5) and the Emergency Contingency Plan (Appendix G) of the Application. Additionally, Condition D.5.a. of this Approval requires EPA review of the qualifications of all key employees, above the level of laborer, to ensure compliance with the standard throughout the term of this Approval.

2. In accordance with 40 C.F.R. § 761.65(d)(2)(ii), the Facility possesses the capacity to handle the quantity of PCB waste which the Owner or Operator of the Facility has estimated will be the maximum quantity of PCB waste that will be handled at any one time at the Facility. This determination is based on the calculations contained in Appendix B of the Application.
3. In accordance with 40 C.F.R. § 761.65(d)(2)(iii), the Facility Owner or Operator of the unit has certified compliance with the storage facility standards in 40 C.F.R. § 761.65 (b). This finding is based on the certification contained in Appendix C of the Application (The Facility does not store waste in stationary storage containers and therefore does not need to certify compliance with 40 C.F.R. § 761.65(c)(7)).
4. In accordance with 40 C.F.R. § 761.65(d)(2)(iv), the Director finds that the Operator has

developed a written closure plan for the Facility that is deemed acceptable under the closure plan standards of 40 C.F.R. § 761.65(e). This finding is based on Appendix E of the Application, including attachments.

As required by 40 C.F.R. § 761.65(e), the closure plan (Appendix E of the Application) includes a description of closure work for the PCB Storage Area, the maximum extent of storage operations (the locations waste will be stored), an estimate of the maximum amount of waste that could be stored at the Facility, a detailed description of the steps necessary to decontaminate PCB waste residues, a detailed description of the steps necessary to ensure that any post-closure releases of PCBs will not present unreasonable risks to human health or the environment, and a schedule for closure of each area of the facility where PCBs were stored or handled. These sections are consistent with EPA guidance on decontaminating, sampling and analyzing PCBs. Additionally, the plan conforms to EPA's general guidance on quality assurance and quality control.

5. In accordance with 40 C.F.R. § 761.65(b)(2)(v), the Owner or Operator has included in the application for final approval a demonstration of financial responsibility for closure that meets the financial responsibility standards of 40 C.F.R. § 761.65(g). This finding is based on EPA's evaluation of the information contained in Appendix E and Appendix F of the Application. Appendix E contains the closure plan, including a cost estimate for closure. Appendix F contains a trust agreement setting aside more than half of the money required for closure (Condition D.9.b requires full funding within two years of the date of final EPA Approval).
6. In accordance with 40 C.F.R. § 761.65(b)(2)(vi), the operation of the storage Facility will not pose an unreasonable risk of injury to health or the environment. This finding is based on EPA's evaluation of the following procedures: the Handling and Disposal of PCB Ballasts and Capacitors (Attachment 2), the General Training and Safety Plan (Attachment 3), the PCB Containing Ballast Protocol and the Hazard Communication Program (Attachment 5) and the Emergency Contingency Plan (Appendix G) of the

Application. This finding is also based on Appendix D of the Application, which shows the Facility is not located in a 100-year flood plain, EPA's compliance inspections of the Facility, most recently on September 25, 2000, and the non-porous coating of the storage area described in Attachment 1 of the Application and EPA's July 26, 2001 fax to Leonardo Robinson with Plews, Shadley, Racher and Braun.

7. In accordance with 40 C.F.R. § 761.65(b)(2)(vii), the history of environmental civil violations of the Applicant, its principals, and its key employees does not constitute a sufficient basis for denial of approval. This finding is based on EPA's evaluation of the information contained in Section V of the Application, which discusses the history of violations for the Operator and employees of the Operator.

## D. CONDITIONS OF APPROVAL

### 1. General Requirements

- a. This Approval shall apply only to the Operator unless the Agency approves a change in the operational control, transferring this Approval in accordance with Condition F.4.
- b. In accordance with 40 C.F.R. § 761.1(e), the regulations at 40 C.F.R. Part 761 do not preempt other more stringent Federal, State or local statutes and regulations.
- c. This Approval for PCB storage at the Facility is valid for a period of 8 years from the date of this Approval.
- d. The Operator shall comply with the TSCA (15 U.S.C. § 2605) regulations at 40 C.F.R. Part 761, and the conditions of this Approval.
- e. Any request to modify the conditions of this Approval by the Owner or Operator is not effective unless the Agency provides written approval.
- f. In accordance with 15 U.S.C. § 2610(a), the Operator shall allow Agency officials, and representatives of the Agency, to conduct inspections of the Facility.
- g. In accordance with 15 U.S.C. § 2610(b)(1), the Operator shall allow Agency officials access to all things within the premises or conveyance inspected (including records, files, papers, processes, controls and facilities) bearing on compliance with TSCA.
- h. The Operator shall follow the marking requirements of 40 C.F.R. §§ 761.40 and 761.65(c)(3). Marking labels shall be used in accordance with 40 C.F.R. § 761.45.
- i. The Operator shall not release PCBs into the environment. However, if there is a release

the Operator shall follow the cleanup requirements of 40 C.F.R. §§ 761.61 or 761.125. The Spill Cleanup Policy shall be used in accordance with 40 C.F.R. § 761.120.

- j. Failure to comply with any condition of this Approval is a prohibited act Under TSCA Section 15(1), 15 U.S.C. §2614(1).
- k. Fluorescent light ballast potting material shall be subject to the TSCA PCB regulations at 40 C.F.R. Part 761 for PCB bulk product waste [i.e., 40 C.F.R. § 761.62(a)] unless ballast markings indicate the ballast does not contain PCBs, or an EPA approved sampling scheme is used to identify the potting material as non-PCB.

## 2. Wastes Accepted

- a. With the exception of PCB/radioactive waste, the Facility is authorized to accept PCB lighting ballasts and non-liquid PCB waste, provided that the storage is in compliance with the terms of this Approval and the regulations contained in 40 C.F.R. Part 761.

## 3. PCB Storage and Transfer

- a. As required by 40 C.F.R. § 761.65(d)(4)(iii), the maximum amount of PCBs that can be stored at the Facility is 48 cubic yard storage boxes and 300 55-gallon drums.
  - i. This quantity applies to all PCB waste stored at the Facility.
  - ii. No PCB waste storage is authorized outside the Facility, except as provided by 40 C.F.R. Part 761.
  - ii. PCB waste stored outside the Facility on a trailer for no more than 10 consecutive days as described in 40 C.F.R. § 731.3 (see transfer facility definition) will not count towards the Facility total.
- b. All PCB waste will be stored in the PCB Storage Area except in-process waste contained in the freezer or the PCB Ballast Processing Area, or as provided by 40 C.F.R. Part 761.

- i. The Operator is authorized to store two drums of PCB waste in the PCB Ballast Processing Area.
  - ii. The Operator is authorized to store two boxes of PCB waste in the PCB Ballast Processing Area.
- c. As required by 40 C.F.R. § 761.65(c)(5), all PCB Items in storage shall be checked for leaks at least once every 30 days. Any leaking PCB Items and their contents shall be immediately transferred to properly marked non-leaking containers. Any spilled or leaked materials and residues containing PCBs shall be immediately cleaned up and the materials and residues shall be disposed of in accordance with 40 C.F.R. § 761.61. Records of inspections, maintenance, cleanup and disposal must be maintained in accordance with 40 C.F.R. § 761.180(b).
- d. The Operator shall store waste in accordance with Section III ( Process Description) and Attachment 5 (PCB Containing Ballast Protocol) of the Application [40 C.F.R. § 761.65(d)(4)(iv)].
  - i. Waste stored in drums may be stacked no more than two drums high.
  - ii. Waste stored in boxes may not be stacked.
  - iii. At least two feet of aisle space shall be maintained between rows of containers within the PCB Storage Area.
- e. Out-bound waste generated by the Operator will be stored in U.S. Department of Transportation approved containers in accordance with 40 C.F.R. § 761.65(c)(6) and Attachment 5 (PCB Containing Ballast Protocol) of the Application.
  - i. The PCB containers shall be rated to hold the weight placed within the container (e.g., a cubic yard of potting compound weighs approximately 1,500 pounds) as required by 40 C.F.R. § 761.65(d)(4)(iv).
- f. All PCB waste transferred to another facility for storage or disposal shall be manifested [40 C.F.R. § 761.180(b)(4)].

- g. The Operator shall include a date removed from service for all waste generated by the Operator [40 C.F.R. § 761.207(a)].
- h. PCB Waste shall be disposed of as required by Subpart D of 40 C.F.R. § 761 within 1 year from the date it was determined to be PCB waste and the decision was made to dispose of it [40 C.F.R. § 761.65(a)(1)].

#### 4. Facility Standards

- a. The Operator shall maintain the Facility to ensure compliance with 40 C.F.R. §761.65(b)(1).
- b. The Operator shall repair and re-coat the PCB Storage Area and fill the floor joints as necessary to ensure the entire storage area functions as a non-porous surface, as stated in Section VIII of the Application [ 40 C.F.R. § 761.65(b)(1)(iii) and (iv)].
  - i. Failure to adequately repair and re-coat the PCB storage facility will create the need for a modification of the closure plan to reclassify it as a porous surface at the time of closure. In that event, different number of samples and different type of sampling may be necessary to adequately close the unit.
- c. The Operator shall not remove equipment that comes in direct contact with PCBs in the PCB Storage Area, unless the equipment is decontaminated in accordance with 40 C.F.R. § 761.79 [ 40 C.F.R. § 761.65(c)(4)].
- d. The Operator is not authorized to drain or flush PCB electrical equipment or PCB contaminated electrical equipment at the Facility [ 40 C.F.R. § 761.65(d)(4)(iv)].
- e. Minimizing Future Releases of PCBs

Within thirty days of the date of this Approval, the Operator shall submit a plan to ensure that contamination from the PCB Ballast Processing Area is not swept, diffused or blown outside of Suite 4. The plan shall include a schedule to complete all identified tasks. Once approved by the Agency, the plan shall be incorporated by reference into this Approval and the plan's schedule shall become the compliance schedule for this task. This condition is necessary to avoid future releases of PCBs [ 40 C.F.R. §§ 761.79(e)(1) and 761.65(d)(4)(iv)].

f. Containing PCB Sediments

Within 60 days of this Approval, the Operator shall submit a plan to ensure that sediments from the west and south sides of the warehouse do not enter the dry well. The plan shall include a schedule to complete all identified tasks and be consistent with 40 C.F.R. § 761.61(a). Once approved by the Agency, the plan shall be incorporated by reference into this Approval and the plan's schedule shall become the compliance schedule for this task. The Operator shall also submit a copy of this plan to the Owner of the Facility [40 C.F.R. §§ 761.79(e)(1) and 761.65(d)(4)(iv)].

5. Personnel

- a. To ensure continued compliance with 40 C.F.R. § 761.65(d)(2), the Operator shall provide information to EPA on the qualifications and environmental compliance history of key employees, above the level of laborers, within 30 days of new employees beginning employment. If, in the opinion of the Agency, a new employee is not sufficiently experienced for their position, EPA may request the new employee to take and successfully pass specific training courses related to the management of PCBs or hazardous materials.
- b. The Operator will train employees and maintain a record of employee training in accordance with Attachment 3 (General Training and Safety Plan) of the Application [40



C.F.R. § 761.65(d)(4)(iv)].

## 6. Emergency Procedures

- a. The Operator shall implement the Contingency Plan, contained in Appendix G of the Application, in response to releases and potential releases of PCBs [40 C.F.R. §§ 761.125 and 761.65(d)(4)(iv)].
- b. The Operator shall maintain all supplies necessary to implement the Contingency Plan, in the locations specified in the Contingency Plan [40 C.F.R. §§ 761.125 and 761.65(d)(4)(iv)].
- c. The Operator shall keep all equipment necessary to implement the Contingency Plan in proper working order, including the maintenance of certifications if necessary (e.g., recertification of fire extinguishers) and store the equipment in the locations specified in the Contingency Plan [40 C.F.R. §§ 761.125 and 761.65(d)(4)(iv)].
- d. Within 15 days after an incident occurs that requires the use of the Contingency Plan, the Operator shall submit a written report to the Agency regarding the incident [40 C.F.R. §§ 761.125 and 761.65(d)(4)(iv)].
- e. The Operator shall follow the notification procedures of the Contingency Plan [40 C.F.R. § 761.125].
- f. The Operator shall modify its Contingency Plan whenever (1) the Plan fails to adequately address an emergency, (2) the emergency coordinator changes, (3) the list of emergency equipment changes, (4) significant changes are made to the Facility, or (5) the Agency determines that a revision to the Plan is necessary [40 C.F.R. § 761.65(d)(4)(iv)].

## 7. Recordkeeping and Written Submissions

- a. As required by 40 C.F.R. §§ 761.180(b) and (b)(1), the Operator shall maintain all annual records for at least the last 3 years of operation and up until 3 years after the Facility is no longer used for the storage or disposal of PCBs and PCB Items. The annual records shall be composed of the following information [40 C.F.R. §§ 761.180(b)(1) and 761.65(d)(4)(iv)]:
- i. All signed manifests generated or received at the Facility during the calendar year.
  - ii. All certificates of disposal that have been generated or received by the Facility during the calendar year.
  - iii. Records of inspections, including the inspection checklists, and cleanups performed in accordance with 40 C.F.R. § 761.65(c)(5) and Condition D.3.c. of this Approval.
  - iv. Ballast Log Sheet (s) (Form 003).
  - v. Outbound Ballast Log (s) (Form 002).
- b. As required by 40 C.F.R. § 761.180(b)(2), the Operator shall maintain a written annual document log for at least 3 years of operation and up until 3 years after the Facility is no longer used for the storage of PCBs and PCB Items. The annual document log should include the following:
- i. The name, address, and EPA identification number of the storage or disposal Facility covered by the annual document log and the calendar year covered by the annual document log.
  - ii. For each manifest generated or received by the Facility during the calendar year, the unique manifest number, name and address of the facility that generated the manifest and the information listed under 40 C.F.R. §§ 761.180(b)(2)(ii)(A) - (E) of TSCA.
  - iii. For any PCB waste disposed at a facility that generated the PCB waste or any waste that was not manifested to the facility, the information required under 40 C.F.R. §§ 761.180(b)(2)(ii)(A) - (E) of this section.

- c. The Operator shall submit an annual report to the Agency, and to the reference desk of the local library, for the previous (calendar) year by July 15 [40 C.F.R. §§ 761.180(b)(3) and 761.65(d)(4)(iv)]. The annual report shall be composed of the following information:
- i. The name, address, and EPA identification number of the Facility covered by the annual report for the calendar year.
  - ii. A list of the numbers of all signed manifests of PCB waste initiated or received by the Facility during the year.
  - iii. The total weight in kilograms of bulk PCB waste, PCB waste in PCB Transformers, PCB waste in PCB Large High or Low Voltage Capacitors, PCB waste in PCB Article Containers and PCB waste in PCB Containers in storage at the Facility at the beginning of the calendar year, received or generated at the Facility, transferred to another facility, or disposed of at the Facility during the calendar year.
  - iv. The total number of PCB Transformers, the total number of PCB Large High or Low Voltage Capacitors, the total number of PCB Article Containers, and the total number of PCB Containers in storage at the Facility at the beginning of the calendar year, received or generated at the Facility, transferred to another facility, or disposed of at the Facility during the calendar year.
  - v. The total weight in kilograms of each of the following categories: bulk PCB waste, PCB waste in PCB Transformers, PCB waste in PCB Large High or Low Voltage Capacitors, PCB waste in PCB Article Containers, and PCB waste in PCB Containers remaining in storage for disposal at the Facility at the end of the calendar year.
  - vi. The total number of PCB Transformers, the total numbers of PCB Large High or Low Voltage Capacitors, the total number of PCB Article Containers and the total number of PCB Containers remaining in storage for disposal at the Facility at the end of the calendar year.
  - vii. A summary of all releases reported to Federal and State agencies during the past year. For each release, EPSI should identify the amount reported and the areal

extent of the release.

- d. The facility shall maintain a copy of all documents, correspondence and data that have been provided to or sent from the Owner or Operator to any State or local government agency that pertain to the storage of PCBs at the Facility for at least the last 3 years of operation and up until 3 years after the Facility is no longer used for the storage or disposal of PCBs and PCB Items [40 C.F.R. §§ 761.180(f)(1) and (2)].
- e. The Facility shall maintain a copy of any applications and related correspondence sent by the Owner or Operator of the Facility to any local, State or Federal authorities in regard to building permits, fire department permits, storm water permits or other permits as required by 40 C.F.R. § 761.180(f)(3).
- f. The Operator shall write in ink or type all records required by Subpart J of 40 C.F.R. Part 761. Any modification or correction of the records must be initialed and dated by the supervisor in charge.
- g. The Operator shall include a certification statement found at 40 C.F.R. §761.3 whenever submitting written information about the Facility to the Agency.
- h. The Operator shall submit to the Agency annual adjustments for inflation to the closure cost estimate, within 60 days prior to the anniversary date of the establishment of the financial assurance mechanism [40 C.F.R. § 761.65(f)(2)].
- i. The Operator shall keep at the Facility during its operating life the closure cost estimate, including any adjustments resulting from inflation or from modifications to the closure plan [40 C.F.R. § 761.65(f)(4)].
- j. Unless otherwise notified by the Agency, all documents required to be submitted under this Approval shall be sent to the following address:

Director, Cross-Media Division  
U.S. Environmental Protection Agency - Region 9  
Attn: Regional PCB Coordinator  
Toxics Section, (CMD-4-)  
75 Hawthorne Street  
San Francisco, CA 94105

## 8. Closure

- a. The Operator's Closure Plan, Appendix E of the Application, is incorporated by reference into this Approval [40 C.F.R. § 761.65(d)(4)(ii)].
  - i. The operator shall collect shallow asphalt and concrete samples rather than the soil samples specified by the closure plan.
  - ii. Soil samples will be required in areas where asphalt samples exceed the clean-up standards of Condition D.8.g. of this Approval.
- b. The Operator shall comply with the closure schedule of Appendix E of the Application [40 C.F.R. §§ 761.65(e)(6)(i)-(iv)].
  - i. The Operator shall notify in writing the Director at least 60 days prior to the date on which final closure of its Facility is expected to begin [40 C.F.R. § 761.65(e)(6)(i)].
  - ii. The date when the Operator "expects to begin closure" shall be no later than 30 days after the date on which the Facility received its final quantities of PCB waste [40 C.F.R. § 761.65(e)(6)(ii)].
  - iii. Within 90 days after receiving the final quantity of PCB waste for storage, the Operator shall removal all PCB waste in storage from the Facility from in accordance with the closure plan [40 C.F.R. § 761.65(e)(6)(iii)].
  - iv. The Operator shall complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final quantity of PCB waste for storage at the Facility [40 C.F.R. § 761.65(e)(6)(iv)].
- c. The Operator shall submit a written request to the Agency for a modification to this

Approval whenever changes in ownership, the Operator, operating plans, or the Facility design affect the existing closure plan [40 C.F.R. § 761.65(e)(4)(i)].

- i. If the Director approved a closure plan modification, and that modification increases the cost of closure, the Operator shall revise the closure cost estimate no later than 30 days after the modification is approved. Any such revision shall also be adjusted for inflation in accordance with Condition D.7.h.
- d. The Operator shall submit a written request to the Agency for a modification to this Approval whenever there is a change in the expected date of closure [40 C.F.R. § 761.65(e)(4)(ii)].
- e. The Operator shall submit a written request to the Agency for a modification to this Approval whenever, in conducting closure activities, unexpected events require a modification of the approved closure plan [40 C.F.R. § 761.65(e)(4)(iii)].
- f. Within 60 days of completion of closure, the Operator shall submit, by registered mail, a certification that the Facility has been closed in accordance with the approved closure plan. The certification shall be signed by the Owner or Operator and by an independent registered professional engineer, as required by 40 C.F.R. § 761.65(e)(8).
  - i. The closure certification shall contain information to support the certification, including, but not limited to, manifests for waste shipments, sampling results, maps showing sampling locations, pictures of decontaminated areas, pictures of the sampling grid or sampling locations based on the grid and pictures of the Facility at the conclusion of closure activities.
- g. Standards
  - i. The Operator shall decontaminate any areas found to exceed the cleanup standard in accordance with the procedures contained in the closure plan.

Matrix	Clean-up Standard
Non-Porous Surfaces	10 ug/100 cm <sup>2</sup>

Porous Surfaces	1 mg/kg
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- ii. Vinyl ester coated concrete in the PCB Storage Area is a non-porous surface.
  - iii. Provided that at least one shallow ( $\frac{1}{2}$  inch deep) sample is collected from the Ballast Processing Area, as noted in the closure plan, the primary contaminant of concern is solid PCB dust from the potting material. Wipe samples collected from un-coated concrete, painted concrete (e.g. the Ballast Processing Area) and painted walls may be compared to the non-porous surface limit.
  - iv. Asphalt and soil are porous surfaces.
  - v. Expansion joints in the PCB Storage Area are porous surfaces, because the joints were improperly sealed at one time.
- h. Verification Sampling
- i. To ensure the Operator has adequately decontaminated the Facility, the Operator must demonstrate that with 90% certainty (false positive or  $\alpha = 0.10$ ) that 90% of the randomly selected verification wipe samples do not exceed the appropriate decontamination standard ( $P_o=0.10$ ) stated in the closure plan, for both porous and non-porous surfaces (for more information, see Methods for Evaluating the Attainment of Cleanup Standards, Volume 1: Soils and Solid Media, EPA 230/02-89-042)

To make such a demonstration, the following number of exceedences of the wipe standard are allowed

Random Samples	Allowed Exceedences
22-37	0
38-51	1
52-64	2
65-77	3

78-90	4
91-103	5

This table is copied from a portion of Table A.10 in EPA's Methods for the Evaluating the Attainment of Cleanup Standards, Volume 1: Soils and Solid Media, EPA 230/02-89-042.

- ii. If the verification sampling event includes more than the allowed number of exceedences, the Operator has the following options:
  - 1) Repeat verification sampling.
  - 2) Collect additional randomly located verification wipe samples (e.g., if 2 samples out of 45 exceed the cleanup standard, the Operator may collect seven additional randomly selected wipe samples with the intent of demonstrating that no more than 2 out of 52 samples exceed the cleanup standard).
  - 3) Decontaminate or propose an alternative approach for Agency approval..
- iii. At wipe sample locations found to exceed the decontamination standard, the Operator shall collect four wipe samples in the grid locations immediately to the north, south, east and west (of the sample found to exceed the decontamination standard) to determine the extent of contamination.
- iv. Verification samples following the identification and decontamination of an area exceeding the cleanup standard, and resampled in accordance with the closure plan and provision D.8.g.iii. are not counted as random samples.
- v. The third party verification contractor must observe the collection of verification wipe samples.

## 9. Financial Assurance

- a. The Operator shall make adjustments to the closure trust fund to reflect the revised closure cost estimate (see Condition D.7.h above) prior to the anniversary date of the establishment of the financial assurance mechanism [40 C.F.R. § 761.65(f)(2)].



- b. For the first two years of this Approval, the Operator shall make annual adjustments to the closure trust fund to ensure that it is 2/3rds funded within one year of the date of this Approval and fully funded within two years of the date of this Approval, in accordance with 40 C.F.R. § 761.65(g)(1)(i).

(Please note that Conditions D.7.h. and i. contain recordkeeping and reporting requirements related to financial assurance).

- c. Bankruptcy

If a voluntary or involuntary proceeding under Title 11 (Bankruptcy), of the U.S.C., names the Operator as a debtor, the Facility shall notify the Regional Administrator within 10 days of commencement of the proceeding.

## E. DECONTAMINATION

This Section applies to the decontamination of porous and non-porous surfaces in contact with non-liquid PCBs (e.g., the removal of PCB contaminated potting compound from metal components of lighting ballasts).

### 1. Standards

The following decontamination standards apply to all decontaminated lighting ballasts components.

#### a. Alternative Standard for Wire and Steel [40 C.F.R. § 761.79(h)]

	Steel	Wire
Recycled by a 761.72 (a) Metal Recovery Oven	100 ug/100 cm <sup>2</sup>	100 ug/100 cm <sup>2</sup>

#### b. Unrestricted Standard for Wire and Steel [40 C.F.R. § 761.79(h)]

If requested in a minor modification, the Operator may decontaminate wire or steel to the following unrestricted standard following verification sampling in accordance with Condition E.2.:

	Steel	Wire
Unrestricted Use	10 ug/100 cm <sup>2</sup>	10 ug/100 cm <sup>2</sup>

#### c. Self Implementing Decontamination Standards

If requested in a minor modification, the Operator may change to EPA's self-implementing decontamination standards (e.g., those found at 40 C.F.R. §§

761.79(b)(3)(i)(B), 761.79(b)(3)(ii)(B) or 761.79(c)(6)).

## 2. Verification

- a. To determine compliance with the decontamination standards of Conditions E.1.a or E.1.b. (but not E.1.c.), the Operator shall arrange for an independent third party contractor to sample, package, and ship or transport 15 samples to the Laboratory identified in Appendix E of the Application [40 C.F.R. § 761.79(h)].
  - i. Initially, these samples shall be collected within three months of the date of this Approval [40 C.F.R. § 761.79(h)].
  - ii. Subsequently, sampling shall occur annually within 30 days (before or after) of the anniversary date of this Approval [40 C.F.R. § 761.79(h)].
  - iii. Sampling shall be performed consistent with Appendix A of this Approval.
  - iv. Sample packaging and shipping shall be performed consistent with Section 5.0 of the Field Sampling Plan for the closure plan, Attachment B of Appendix E, or an alternative plan submitted for EPA approval.
  - v. The Operator will successfully demonstrate the adequacy of decontamination if no more than one of the fifteen (wire and scrap metal) samples exceeds the applicable standard.
    - 1) If two or more of the samples exceed the applicable standard, the scrap metal shall be considered TSCA PCB waste (if  $>100 \text{ ug}/100\text{cm}^2$ ) or restricted to recovery in a scrap metal recovery oven (if  $>10 \text{ ug}/100\text{cm}^2$  and  $<100 \text{ ug}/100\text{cm}^2$ ), unless the scrap metal is reprocessed and resampled. All subsequent shipments of scrap metal shall be considered TSCA PCB waste or restricted to recovery in a scrap metal recovery oven (as appropriate) until the Operator has (1) submitted a report identifying and correcting processing deficiencies to the Agency, (2) The Agency has approved the report, and (3) subsequent re-sampling by the independent third party contractor demonstrates compliance with the standards of Conditions E.1.a. or E.1.b. as appropriate [40 C.F.R. § 761.79(h)].
  - vi. If the Operator cannot consistently achieve the decontamination standard, the

Agency may suspend or terminate the Operator's approval to decontaminate porous and non-porous surfaces in contact with PCBs [40 C.F.R. §§ 761.79(h) and 761.65(d)(4)(iv)].

- vii. The Operator may propose an alternate procedure to verify the adequacy of decontamination as a minor modification. Such a proposal must be justified (e.g., by EPA sampling guidance, such as EPA QA/G-4 (Document Number EPA/600/R-96/055))

### 3. Worker Monitoring

- a. Within 60 days of the effective date of this Approval, the Operator shall submit a plan for independent third party air (particulate) monitoring in the Ballast Processing Area and the PCB waste storage area. The plan shall include a schedule of implementation. This requirement shall apply annually for the first three years of the Approval. EPA may extend this requirement to subsequent years by providing a written justification of the need for continued monitoring to the Operator [40 C.F.R. §§ 761.65(d)(4)(iv) and 761.79(e)].
  - i. If the air concentration exceeds the OSHA Permissible Exposure Level (currently 1 mg/m<sup>3</sup>, based on a time-weighted average), the Operator shall revise the General Training and Safety Plan, Attachment 3 of the Application, to include adequate inhalation protection or submit a plan to install equipment to remove or reduce breathing zone concentrations of PCBs [40 C.F.R. § 761.79(e)].

### 4. Outdoor Air Monitoring

- a. Within 60 days of the effective date of this Approval, the Operator shall submit a plan for independent third party air (particulate) monitoring outside Suite 4, but still within the Facility boundary. The plan shall include a schedule of implementation. This requirement shall apply annually for the first three years of the Approval. EPA may extend this requirement to subsequent years by providing a written justification of the

need for continued monitoring to the Operator [40 C.F.R. § 761.65(d)(4)(iv)].

- b. If the air concentration exceeds 1 ug/m<sup>3</sup>, the Operator shall submit and implement a plan to reduce outdoor air concentrations within 30 days of receiving laboratory results [40 C.F.R. § 761.65(d)(4)(iv)].

#### 5. Notification of Changes to the Decontamination Process

- a. The Operator must notify the Director no later than 30 days prior to making physical changes to the ballast processing method specified in Attachment 2 of the Application, Handling and Disposal of PCB Ballast and Capacitors [40 C.F.R. § 761.79].
  - i. If in the opinion of EPA, the ballast processing changes are significant, verification sampling shall be conducted, in accordance with Conditions E.2.a, E.2.a.iii, E.2.a.iv., and E.2.v. of this Approval, prior to the off-site transfer of any material decontaminated by the new method.
  - ii Additional decontamination steps intended to supplement the current decontamination process will not be considered a significant change.

## F. PROCEDURES TO MODIFY, RENEW, SUSPEND, OR TRANSFER THIS APPROVAL

### 1. Modification

#### a. Minor Changes/Modifications

- i. Proposed minor changes to this Approval shall be requested in writing to the Agency.
- ii. Examples of minor changes include: typographical corrections, a change in Facility personnel, upgrading functionally equivalent emergency response equipment, re-coating the PCB Storage Area, decreasing the maximum amount of waste stored at the Facility, a change in the expected date of closure, changes to laboratory test methods specified in the closure plan, changes in the laboratory that will analyze closure samples, changing between the decontamination standards of Conditions E.1.a., E.1.b. and E.1.c. of this Approval, transfer of this Approval to a new Operator (see Condition F.4. for additional requirements), and changes to make this Approval consistent with revisions to 40 C.F.R. Part 761 made after the date of this Approval.
- iii. In response to a minor modification request, the Agency may notify the Operator that the requested change is a major modification.
- iv. The Agency will notify the Operator of its decision in writing. If the Agency denies a proposed minor modification, it will provide specific reasons to the Operator along with the decision. The Agency may suggest changes to the minor modification to make it acceptable.
- v. Public Notice of minor changes is at the discretion of the Agency.

#### b. Major Changes/Modifications

- i. All proposed major changes will be submitted in writing to the Agency and to the Local Public Library.
- ii. Examples of major changes include increases to the Facility's storage capacity and changing the waste accepted for storage or decontamination to include PCB

contaminated electrical equipment and PCB electrical equipment (ballasts with PCBs in the potting compound are considered PCB articles, not electrical equipment).

- iii. Along with each proposed major modification, the Operator will include a brief announcement of the proposed major modification suitable for the Agency to mail to interested community members.
- iv. The Agency will notify the Operator of its decision in writing. If the Agency denies a proposed major modification, it will provide specific reasons to the Operator along with the decision. The Agency may suggest changes to the major modification to make it acceptable.
- v. The Agency will provide an opportunity for public comment on all major modifications.

## 2. Renewal and Extension

- a. The Operator shall submit written notification of intent to seek renewal of the Approval or initiate closure under the Approval, 180 days prior to the expiration of the Approval.
- b. The written notification from the Operator for renewal of the Approval shall consist of an application that includes all documentation necessary to determine compliance with the requirements of 40 C.F.R. §§ 761.65(d)(2)-(3).
- c. If the Applicant has fulfilled Conditions F.2.a and F.2.b. above, this Approval will continue beyond the 8 year period, until the Agency reaches a final decision on the new application.

## 3. Suspension and Termination

- a. The Agency may suspend, or terminate this Approval, or deny an application for Approval renewal, if the Director determines that one or more of the following conditions

have been met [40 C.F.R. § 761.65(d)(4)(iv)].

- i. Noncompliance with any condition of the Approval.
  - ii. Failure by the Operator in the Approval application or Approval issuance process to disclose fully all relevant facts, or the Operator's misrepresentation of any relevant facts at any time.
  - iii. The activities performed under the Approval pose an unreasonable risk to human health or the environment.
  - iv. A change in any condition that requires either a temporary or permanent reduction or elimination of any practice controlled by the Approval (e.g., facility closure).
- b. The Agency shall provide 30-day notice to the Operator of the condition(s) warranting the proposed termination or suspension. The Agency will not terminate or suspend the Approval if the Operator can sufficiently demonstrate within the 30-day period that it has eliminated or corrected the condition(s) warranting the termination or suspension. See 5 U.S.C. § 558(c).
- c. Upon suspension or termination, unless otherwise indicated by the Director to the Operator in writing, the Operator shall immediately cease all activities provided for by this Approval.
- d. If the Approval is suspended, the Operator may apply for reinstatement of the Approval by providing the Director with evidence that the conditions which resulted in the suspension of the Approval have been eliminated. The Operator shall not resume operations until the Director approves the reinstatement of the Approval.

#### 4. Change in Operational Control of the Facility

- a. A modification to transfer this Approval must demonstrate the following:
  - i. The transferee has established financial assurance for closure pursuant to 40



C.F.R. § 761.65(g) using a mechanism as of the date of final approval of the transfer so that there will be no lapse in financial assurance [40 C.F.R. § 761.65(j)(1)].

- ii The transferor or transferee has resolved any deficiencies (e.g., technical operations, closure plans, cost estimates, etc.) the Agency has identified in the transferor's application [40 C.F.R. § 761.65(j)(2)].
- b. In accordance with 40 C.F.R. § 761.65(j), the date of transfer of this Approval will be the date the Director provides written approval of the transfer.